

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**RETAINED REALTY, INC., a Subsidiary of  
Emigrant Savings Bank,**

**Plaintiff,**

**v.**

**DOMINICK LIETO,**

**Defendant.**

**08 Civ. 7975 (SCR)(GAY)**

**MEMORANDUM ORDER  
ACCEPTING REPORT AND  
RECOMMENDATION**

**STEPHEN C. ROBINSON, United States District Judge:**

This Special Proceeding action for foreclosure and eviction, originally filed in the Town of Somers Justice Court, was removed by the *pro se* defendant, Dominick Lieto, on September 15, 2008. On November 13, 2008, the plaintiff moved to remand this matter on the basis that this Court lacks subject matter jurisdiction. On December 19, 2008, Magistrate Judge George A. Yanthis issued a Report and Recommendation on the motion to remand, advising this Court to grant the plaintiff's motion. As Judge Yanthis explicitly noted at the end of the Report and Recommendation, under 28 U.S.C. § 636(b)(1) and Rules 72(b) and 6(d) of the Federal Rules of Civil Procedure, the parties had a right to file written objections to the Report and Recommendation within thirteen days after receiving Judge Yanthis' Report and Recommendation. More than two months have elapsed since Judge Yanthis issued his Report and Recommendation, and the parties have not filed objections.

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## **I. STANDARD OF REVIEW**

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C § 636(b)(1). To accept a Report and Recommendation to which no timely objection has been made, a district court need only satisfy itself that “there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted); *accord Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); *see also Pizarro v. Bartlett*, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (court may accept report if it is “not facially erroneous”). As neither party has objected to Judge Yanthis’ Report and Recommendation, this Court will review the Report and Recommendation for clear error.

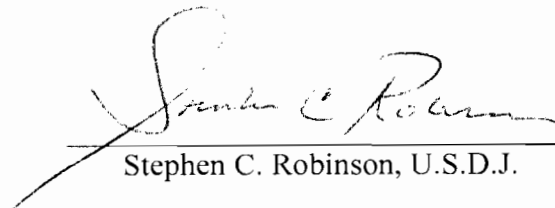
## **II. DISCUSSION**

This Court has reviewed Judge Yanthis’ comprehensive and well-reasoned Report and Recommendation and has determined that there is no clear legal error on the face of the record. Accordingly, the Court accepts Judge Yanthis’ Report and Recommendation in its entirety and grants the plaintiff’s motion to remand. The Clerk of the Court is directed to close this case, including docket entry 6.

*It is so ordered.*

Dated: White Plains, New York

February 25, 2009

  
Stephen C. Robinson, U.S.D.J.